

Town Council Meeting: 12 October 2009



Town of Garrett Park
PO Box 84
4600 Waverly Avenue
Garrett Park, MD 20896

Regular Meeting of Town Council
Garrett Park Town Hall
10814 Kenilworth Avenue
Garrett Park, MD 20896

MINUTES

Meeting Call to Order: Mayor Keller called the meeting to order at 8:05 PM. Present were Councilmembers Irons, Mandel, Petito, Schulp, and Wegner. Also present were Administrator Pratt, Jennifer Beasley of the *Gazette*, and a number of Town residents.

Approval of Agenda: Mayor Keller noted a number of changes to the agenda, asking the Council to add a possible executive session to consider the acquisition of real property at the end of the meeting, if time permitted; to change the order of the first two action items; and that the Council concur with his responding to the request of the Land Use Task Force to appoint Suzanne Grefsheim its new Chair. Mayor Keller noted that Gene Brantly, who had come forward to chair the Task Force when it was formed, and who had performed the difficult task of helping the Task Force organize itself and develop a work plan, was now faced with circumstances that made it impossible for him to continue and had to resign. The Mayor thanked Gene for his service.

Councilmember Petito **MOVED**

That the Council agrees to the revised agenda and to the appointment of Suzanne Grefsheim as the Land Use Task Force Chair. Councilmember Wegner seconded the motion, which was **PASSED** unanimously.

Presentations by Residents:

- Tara Flynn updated the Council on developments with the Garrett Park Nursery School, reporting that they were in the final stages of negotiating with the County Parks Department the use of the Ken-Gar building as their temporary home during the 2010/2011 school year. Ms. Flynn also handed out a sheet to the Council with answers to frequently asked questions (FAQs) about the Garrett Park Community Center transfer from the County to the Town.
- Henri Keller reminded the Council of the Film Society's presentation of the movie "Word Play" on Friday, November 6th.

Adoption of Minutes:

- 06/08/2009 & 07/13/2009 Regular Council Meetings: Mayor Keller explained that in its effort to get information out to residents in a timely manner, the Council modified the minutes approval process by reviewing

and authorizing publication of minutes at its monthly work sessions, but that it was still necessary to formally adopt minutes at a regular Council meeting to maintain a formal record. Councilmember Wegner **MOVED**

That the minutes of the Council meetings of June 8th and July 13th of this year be approved. Councilmember Irons seconded the motion, which was **PASSED** unanimously.

- 09/14/2009 – Regular Council Meeting: Councilmember Irons **MOVED**

That the minutes of the September 14th, 2009 regular Council meeting be approved as corrected. Councilmember Wegner seconded the motion, which was **PASSED** unanimously.

Mayor's Report

- Mayor Keller and Councilmember Wegner updated the Council on the status of the White Flint Sector Plan. The Town will offer testimony at the October 20 County Council hearing on the draft Sector Plan. Mayor Keller said that the focus of the testimony will be to support the broad goals of the Sector Plan – a vibrant mixed-use community that is walkable, environmentally sustainable, and a pleasant place to visit, live and work. The testimony will also note that the Town has concerns about the density of development envisioned by the Plan and many elements that flow from that density, with an emphasis on traffic impacts on Strathmore. The testimony will urge a balance in density (residential and commercial development) with adequate public facilities – roads, public transportation, schools, and public amenities such as a community center and library.
- Mayor Keller and Councilmember Wegner updated the Council on the status of the Community Center/Nursery School/Garrett Park Estates Park Activity Building, most notably the favorable resolution of the “utility separation” issue. In providing utility service for the new Garrett Park Elementary School, the Nursery School will be assured of continued utility service without having to contribute to the considerable cost of installation of the new service. Utilities will be “sub-metered” to the Nursery School and will not involve costs beyond those reflecting the actual usage at the building. Other steps preparatory to the Town Council’s consideration of whether to accept the proffered transfer of the building from the Montgomery County Parks Department – including title research and assessment of liability issues – are also moving apace.

Councilmember's Reports on Areas of Responsibility:

- Councilmember Schulp reported that David Gregg, the Town’s tree work contractor, had finished most of the annual fall pruning. He noted that Bartlett Tree Service was retained to assess the condition of two large trees – a Willow Oak on Montrose and a Sugar Maple on Kenilworth; preliminary assessment reports indicate that the Oak has a low hazard rating but the Maple is diseased, so will be added to the Winter removals list. Councilmember Schulp informed the Council of his intention to call a meeting of the Arboretum Committee in the near future to select a chair

and begin planning the Spring planting; he also noted that if the desired cultivars could be found, a few trees may be planted this Fall.

- Councilmember Wegner told the Council that the repairs to Strathmore Avenue between Clermont and Montrose that had been recently carried out by SHA appeared inadequate and incomplete. The Town will request an on-site meeting with SHA.
- Councilmember Mandel reported that repairs to the cement apron in front of the Maintenance Building had been successfully completed, as well as repairs to the sidewalk in front of Penn Place, and that new steps down from the Penn Place fire escape ramp to the roadway beside the post box had been installed to correct a problem with erosion and to improve egress from the building.

Action/Discussion:

- Funding for Cambria Park Playground Equipment - Councilmember Petito and Parks Committee Chair Ida Sullivan presented a recommendation to the Council that the Cambria Park playground equipment be replaced. (Proposal is attached to these minutes) They explained that a combination of concern for the outdated nature of the equipment, the equipment's deterioration as it approached the end of its serviceability, and the opportunity to take advantage of a significant discount available only through October 16th made acting now imperative. Mayor Keller noted that transfer of funds from Contingency to the Capital Fund for Parks would be required to enter into a contract to purchase equipment, which required a 50% down payment of \$12,000. Once the final cost is determined, the Council will be able to amend the FY 2010 Capital Budget by Ordinance to accommodate the entire expenditure and replenish the Contingency as deemed appropriate - probably during the Council's usual review of the current fiscal year budget in December and January. Chair Sullivan answered a number of questions from the Council, and discussion followed. Councilmember Mandel **MOVED**

That the Council accept the Parks and Open Space Committee's recommendation, authorize the Mayor to sign the contract, and approve the transfer of \$7,000 from account 19000 - Contingency to Capital account 23271 - Cambria Playground. Councilmember Irons seconded the motion, which **PASSED** unanimously after brief discussion.

- Consideration of Request for Waiver to Allow Construction of Driveway Retaining Walls in Town Right of Way - 11110 Rokeby - Rozenblat (Continued from the 09/14/2009 Council Meeting): Councilmember Irons reminded the Council of the discussion of this application at the September meeting, and particularly the concerns regarding construction of retaining walls and entry posts in the Town's right of way; she noted the lack of an indication on building plans of information that would permit assessment of the proportion of the construction that was in the Town right-of-way (e.g., the distance between the property line and the road). Administrator Pratt reported on the site visit he performed earlier in the day with Mr. Rozenblat and Town Maintenance Supervisor Frost; he was able to

determine that the distance between the lot line and the pavement was approximately 15 feet. Mr. Pratt also reported that Mr. Rozenblat was willing to remove the cement blocks of the retaining wall from the Town's right of way so that the end of each wall was at least 15 feet from the curb, but that he asked for permission to leave the footings so as to retain the landscaping and prevent erosion. Councilmember Irons **MOVED**

That the Council authorize the Town Administrator to issue a permit to reconstruct the driveway at 11110 Rokeby Avenue across the Town right of way with the following conditions:

- The applicant will remove the cement block walls to a distance of at least 15 feet from the edge of the paving for Rokeby Avenue;
- The applicant may leave the cement footings as a means of retaining landscaping and preventing erosion, with the understanding that should the Town wish to extend a sidewalk in front of 11110 Rokeby Avenue, or wish to take any other action that would require the removal of part or all of the footings on the Town right of way, such removal will be at the applicant's expense, and will be done in a timely manner; and
- The applicant will insure that the final installation of the driveway apron will comply with the Town's Code in that it will not interfere with the flow of water along Rokeby Avenue, and that it will not allow water to flow off Rokeby Avenue onto the area behind the curbing.

The motion was seconded by Councilmember Wegner and was **PASSED** unanimously.

- Requests received from the Land Use Task Force – Councilmember Irons noted that the Land Use Task Force (LUTF) has forwarded two requests for Council consideration:

1. A LUTF recommendation to the Garrett Park Town Council, as interim to its final report, to adopt the exemptions from projections that are part of the Montgomery County zoning ordinance (Division 59-B-3), with the exception of section 59-B-3.1 (d) as it applies to front setbacks.
2. A request that the Town Council give further clarification and guidance to the Task Force as to what the Council wants in the way of a final report from the LUTF- a detailed technical report or broad generalized recommendations.

Pat Keating, a member of the LUTF, made a presentation on behalf of the LUTF, stating that he had been asked by the LUTF to make the requests referred to by Councilmember Irons, noting that he believed it had been the original intent to include all County exemptions when the Town had first adopted the current Chapter Four of the Code of Ordinances. Mr. Keating told the Council that he believed that doing this would provide the Town Code clarity and consistency with the County Code, and that it would give architects and builders greater flexibility in design, possibly breaking up the mass of new construction. Councilmember Irons noted that Harry Gordon, Chair of the Setback Advisory Committee (SAC) also supported

the incorporation of these exemptions into the Town Code. Councilmember Petito asked if, in requesting this interim action, the LUTF anticipated recommending something different in its final report and Mr. Keating noted that was a possibility.

Councilmember Wegner stated that he was puzzled by the request to take an interim action and asked why the LUTF did not want to complete its process, including seeking input from Town residents, before asking for Council action. The Council would want input from Town residents before making changes to the Town's Code. Resident Bob Reinhardt, also a LUTF member and Chair of its Technical Standards Subcommittee, addressed the Council, noting that he had been a Councilmember at the time of the development of Town's current ordinance, that he believed it had always been the intent to include the exemptions, that he was not at all convinced that the exemptions were not already included in the Town ordinance by way of the County's definition of "building line", and that in any case it was not a large change. Mayor Keller asked what the LUTF was asking for: a non-legislative change in current policy based on the LUTF's interpretation that County exemptions were already incorporated in the Town's ordinance by virtue of the Town ordinance reference to County "definitions", or an amendment to the ordinance to specifically authorize projections into setbacks. Mr. Reinhardt stated that that was up to the Council. Resident Charlie Snyder stated that he felt the Council should wait until the LUTF had submitted its final report, giving the Council the opportunity to consult with the Town at large prior to taking action. Resident Pam Morgan disagreed, stating that there was ambiguity in the current ordinance that could be easily cleared away through this proposed interim action. There was extended discussion, the result of which was that the Council agreed to seek an independent legal opinion on whether the County exemptions are already subsumed in the Town ordinance.

Mayor Keller then asked Mr. Reinhardt to speak to the second request regarding what the Council wants in the way of a final report. Councilmember Wegner noted that the Council had given the LUTF a charge that, although detailed in some respects, also permitted the LUTF flexibility in determining the nature of its own final report. Mr. Reinhardt responded by asking if the Council wanted broad recommendations or specific recommendations, noting that developing specific recommendations would probably require more funding to allow the LUTF to seek legal and professional assistance. Councilmember Irons suggested that this could be a topic for the upcoming Council Workshop on October 26th.

Mayor Keller noted that action had been taken at the opening of the meeting on the appointment of Suzanne Grefsheim as LUTF Chair, replacing Gene Brantly, who had resigned.

- Adoption of Ordinance 2009-02: Establishment of a Debt Policy – Mayor Keller noted that the ordinance was introduced at the September Council meeting. Administrator Pratt drew the Council's attention to the changes in the format of the ordinance that had been made at the request of the Council prior to the vote to introduce the ordinance. Councilmember

Wegner **MOVED**

That Ordinance 2009-02 establishing a debt policy be adopted. The motion was seconded by Councilmember Irons, and was **PASSED** unanimously. (A copy of the adopted ordinance is attached to these minutes)

Town Administrator Report:

- Monthly Financial Report - Administrator Pratt reviewed the monthly financial report with the Council.

Executive Session: Due to the lateness of the hour there was no executive session

Adjournment: The meeting adjourned at 11:10 PM

Respectfully submitted,

[TOWN SEAL]

Edwin Pratt, Jr., Clerk-Treasurer

Resolution 2009 – 01
Adopted: 12/14/2009

A Resolution Regarding
The Garrett Park Estates Local Park and Community Center

WHEREAS, the Montgomery County Parks Department (Parks Department) has informed the Town Council of its desire to transfer ownership of the property known as the Garrett Park Estates Local Park (Community Center) to the Town of Garrett Park (Town) 'in fee simple', with certain additional terms to be negotiated; and

WHEREAS, the same Community Center has, since its origins in 1948, always played a major role in the life of the Town of Garrett Park; and

WHEREAS, the Community Center has served as the home for the Garrett Park Cooperative Nursery School (Nursery School) since 1953; and

WHEREAS, both the Town and the Nursery School wish to see the Community Center continue to serve as the Nursery School's home and are also committed to making the facility available for a range of community activities; and

WHEREAS, the Nursery School has developed and wishes to implement plans to refurbish the Community Center building and grounds at no expense to the Town, creating an improved facility, including playgrounds, available for use by Town residents;

NOW, THEREFORE, it is, this 14th day of December 2009, by the Town Council of Garrett Park:

RESOLVED, that it is the intent of the Town to negotiate with the Parks Department to effect the transfer of ownership of the Community Center to the Town in as timely a manner as possible; and

RESOLVED, that upon successfully completing the transfer of ownership from the Parks Department, the Town intends to lease the entire property to the Nursery School as sole tenant for a period of at least 15 years, subject to the negotiation of mutually agreeable lease terms; and

RESOLVED, that the Town enter into a Memorandum of Understanding with the Nursery School regarding the leasing of the Community Center.

I, Edwin Pratt, Jr., Clerk-Treasurer of Garrett Park, hereby certify that the foregoing Resolution was adopted by the Town Council at its meeting on December 14th, 2009.

[TOWN SEAL]

Edwin Pratt, Jr., Clerk-Treasure

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by and between the Town of Garrett Park (Town), a duly incorporated municipality in Montgomery County, Maryland, and the Garrett Park Cooperative Nursery School (Nursery School), a registered 501(c)(3) non-profit corporation, which operates a nursery school currently housed in the Garrett Park Estates Local Park Activity Building (Community Center).

The purpose of this MOU is to document the mutual commitment of the Town and the Nursery School to insure the continued operation of the school at the Community Center.

The Town agrees to continue its negotiation of the transfer of ownership of the Community Center from the Montgomery County Parks Department (Parks Department) to the Town with the intent to conclude negotiations as quickly as possible while assuring that the Town receives proper title to the property.

The Town also intends, upon acquiring ownership of the Community Center from the Parks Department, to offer a sole-tenant lease of the property to the Nursery School for a term of not less than 15 years. The parties will negotiate such lease in good faith.

The Nursery School agrees to develop and implement plans to refurbish the Community Center building and grounds at no expense to the Town, creating an improved facility, including playgrounds, available for use by Town residents.

Both parties agree to use diligent efforts to support the other in the fulfillment of these commitments.

This MOU shall commence upon signing by the parties.

FOR THE TOWN OF GARRETT PARK

Christopher Keller, Mayor

Date: _____

FOR THE GARRETT PARK COOPERATIVE NURSERY SCHOOL

Gerilee Bennett, President, Executive Board

Date: _____